IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

ST.Rev..No. 456 of 2004

ORDER DATED 27.3.2002 IN TA.217/1999 OF KERALA SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, KOZHIKODE

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REVISION PETITIONER/RESPONDENT/REVENUE

STATE OF KERALA,
REP. BY DEPUTY COMMISSIONER (LAW),
COMMERCIAL TAXES, ERNAKULAM.

BY GOVERNMENT PLEADER MR.K.B.PRADEEP

RESPONDENT/APPELLANT/ASSESSEE

M/S.NOVELTY EXPORT COMPANY,
EXPORTS OF HOOKA,
EAST ROAD, KOYILANDY.

THIS SALES TAX REVISION HAVING COME UP FOR ORDERS ON 25/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

C.M.Appln.No.1157 of 2004 &
S.T.Rev.No.456 of 2004

Dated, this the 25th day of September, 2007

ORDER

H.L.Dattu, C.J.

This revision petition is filed against the orders passed by the Kerala Sales Tax Appellate Tribunal, Additional Bench, Kozhikode in T.A. No.217 of 1999 dated 27th March , 2002.

2. In filing the revision petition there is a delay of 563 days. For condoning the delay in filing the revision petition an application is also filed under Section 5 of the Limitation Act. Along with the application the affidavit of the Deputy Commissioner (Law), Commercial Taxes, Ernakulam is also filed. It is a stereo typed affidavit. Except filling up the blanks here and there, nothing else has been stated by the Deputy Commissioner for approaching this Court belatedly questioning the correctness or otherwise of the orders passed by the Tribunal in TA.No.217 of 1999.

3. The explanation offered by the applicant in his affidavit is as under:

> "2. The Order of the Sales Tax Appellate Tribunal, Principal Bench, Trivandrum in T.A.No.217/99 dated 27.3.2002 was received in my Office on 30.9.2002. On 30.9.2002 itself the order along with connected files were distributed in my Office for examining the scope for filing Tax Revision. Thereafter the Order alongwith the suggestions were forwarded to the Secretary, taxes suggesting to file Sales Tax Revision. The same was again received in my Office on 4.4.2003 and the same was sent to the Office of the Advocate General for preparing the Revision Petition. After Revision was prepared I had signed the same on 12.5.04 and entrusted the Office of the Advocate General for filing Sales Tax Revision.
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> 3. Calculating from the date of receipt of the Order the Sales Tax Revision ought to have been filed on or before 29.12.2002. However, the same could be filed only on 15.7.04. Thus the delay of 563 days has occurred in filing the Sales Tax

> Revision. The delay caused is not due to any wilful neglect or laches on my part or in my Office. The delay is purely due to administrative reasons as explained above. I am advised that there is every chance of winning the case. Therefore it is only just and proper that the delay of 563 days occurred in filing the revision petition is condoned. An application is also filed herewith for the said purpose."

4. We have carefully perused the reasons assigned by the applicant for approaching this Court belatedly.

5. In filing the revision petition, in our opinion, the said explanation is wholly unsatisfactory. Therefore, the delay in filing the revision petition cannot be condoned by us. Accordingly, the said application requires to be rejected and it is rejected.

4. Consequently, the tax revision petition also stands rejected.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns